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**UNITED STATES COURT OF APPEALS**  
FOR THE THIRD CIRCUIT  
21400 UNITED STATES COURTHOUSE  
601 MARKET STREET  
PHILADELPHIA, PA 19106-1790

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Harrisburg Pennsylvania Clerk  
(District)

Date 8/5/04

Allfirst Bank v. Ortenzio  
(Caption)

C. of A. No. 03-2225

John M. Ortenzio  
(Appellant)

01-cv-00786  
(D.C. No.)

Enclosures:

8/5/04 Certified copy of C. of A. Order by the Court /Clerk  
(Date)

\_\_\_\_\_ Released (Record) (Supplemental Record - First - Second - Third)

\_\_\_\_\_ Copy of this form to acknowledge receipt and return to C. of A.

\_\_\_\_\_ Record not released at this time until appeal(s) closed at No.(s) \_\_\_\_\_

\_\_\_\_\_ Please forward Certified List in lieu of Record to this office.

\_\_\_\_\_ The certified copy of Judgement issued as the mandate on \_\_\_\_\_ is recalled.

\_\_\_\_\_ Chiquita Dyer (267)-299- 4919  
Case Manager Telephone Number

Receipt Acknowledge:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Date)

**FILED**  
HARRISBURG, PA  
AUG 16 2004  
MARY E. D'ANDREA, CLERK  
Per ~~\_\_\_\_~~ Deputy Clerk

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

June 24, 2004  
C-117

No. 03-2225  
ALLFIRST BANK

v.

JOHN M. ORTENZIO, Appellant  
(Middle District of Pennsylvania (Harrisburg) D.C. 01-cv-00786)

FILED  
HARRISBURG, PA  
AUG 16 2004  
MARY E. D'ANDREA, CLERK  
Per Deputy Clerk

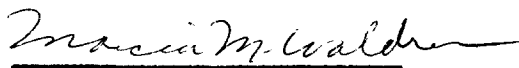
Present: **ALITO, FUENTES AND CHERTOFF, Circuit Judges.**

1. Clerk's Submission for Possible Dismissal for Jurisdiction Defect.
2. Response by Appellee to Clerk's Letter for Possible Dismissal for Jurisdiction Defect.
3. Response by Appellant to Clerk's Letter for Possible Dismissal for Jurisdiction Defect.
4. Motion by Appellee to Dismiss Appeal.
5. Response by Appellant in Opposition to Appellee's Motion to Dismiss Appeal.
6. Motion by Appellant to Strike Appellee's Motion to Dismiss Appeal.
7. Response by Appellee in Opposition to Appellant's Motion to Strike.
8. Reply by Appellee in Support of Motion to Dismiss Appeal.

Chiquita Dyer  
Case Manager 267-299-4919

**ORDER**

The order being appealed does not dismiss all claims as to all parties and has not been certified by the District Court under Fed. R. Civ. P. 54(b), the order is not appealable at this time. Andrews v. United States, 373 U.S. 334 (1963). Accordingly, Appellee's motion to dismiss is granted and the appeal is dismissed for lack of appellate jurisdiction. Appellant's motion to strike Appellee's memorandum of law is denied.

  
Marcia M. Waldron,  
Clerk

By the Court,

/s/ Michael Chertoff, Circuit Judge

Dated: August 5, 2004